

III. Remarks

Reconsideration of this application in light of the above amendments and the following remarks is requested.

Claims 1-26 were originally filed in the present application. Claims 18-25 have been withdrawn without prejudice or disclaimer as the result of an earlier restriction requirement. Of the remaining claims, claims 1-8, 10-17 and 26 have been rejected. Claim 9 was objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form. Claim 5 has been canceled.

Claim 1

Claim 1 was rejected under 35 USC § 102(e) as being anticipated by U.S. Patent No. 6,859,523 to Jilk et al ("Jilk"). Applicant traverses the Examiner's rejection of claim 1 on the ground that the rejection fails to meet the requirement of MPEP § 2131. "A claim is anticipated only if each and every element as set forth in the claim is found." *Verdegall Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987); MPEP § 2131. Further, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989); MPEP § 2131.

Claim 1, as amended, recites that "a prioritizing module for prioritizing the tasks, wherein the tasks are prioritized according to a status of the assigned tasks and a yield value." The Examiner has acknowledged that Jilk does not teach determining a yield value. (Office Action, pg. 6). Therefore, for this and other reasons, Jilk does not teach each and every element of claim 1 and Applicant respectfully requests withdrawal of the rejection of independent claim 1.

Claims 2-4, 6-8, and 10 depend from and further limit claim 1 and are therefore allowable for at least the same reasons.

Claim 9

Claim 9 was objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 9 has been rewritten in independent form and includes all of the limitations of the base claim and any intervening claims. Consequently, Applicant respectfully requests the Examiner withdraw the objection to claim 9.

Claim 11

Claim 11 was rejected under 35 USC § 103(a) as being unpatentable over Jilk in view of U.S. Patent No. 4,852,001 to Tsushima et al ("Tsushima"). This rejection is respectfully traversed.

As the PTO recognizes in MPEP §2143, "[t]o establish a prima facie case of obviousness, . . . the prior art reference (or references when combined) must teach or suggest all the claim limitations." Applicant respectfully submits that Jilk in view of Tsushima does not teach or suggest all of the claim limitations in independent claim 11.

As acknowledged by the Examiner, Jilk does not teach "determining a yield value for each task of the plurality of tasks" as recited in claim 11. To overcome this deficiency, the Examiner has attempted to combine Jilk with Tsushima because Tsushima teaches "allocation rules." Applicant submits that, even if Jilk and Tsushima are properly combinable, the combination of the references does not teach or suggest all of the claim limitations. In particular, Applicant respectfully disagrees that "allocation rules" are equivalent to a "yield value" as stated by the Examiner. In Tsushima, the "allocation rules" are described as "an initial workload for job [P₁], resource type [P₂] and number of persons [P₃] are allocated between [P₄] o'clock to [P₅] o'clock." (Tsushima, col. 3, lines 36-38). Further, "[w]ith this initial workload allocation rule, it is possible to allocate most suitable time units to the workload of a job." (Tsushima, col. 3, lines 53-55). Accordingly, Tsushima teaches allocation rules to allocate time units to a job.

On the other hand, "yield values" are values assigned to a task based on opportunity based retail factors. (See ¶¶15-17). Additionally, yield values are a separate mechanism for prioritizing than a timing based system. (See ¶18). Accordingly, the Tsushima reference cited by the Examiner, which teaches allocation rules to allocate time units, does not teach, disclose, or suggest yield values, which are values assigned to a task based on opportunity based retail factors. As such, neither Jilk nor Tsushima teach "determining a yield value for each task of the plurality of tasks." Therefore, the combination of Jilk and Tsushima does not teach or suggest all of the limitations of claim 11.

Applicant respectfully submits that claim 11 is in condition for allowance and the rejection should be withdrawn. As claims 12-17 depend from and further limit claim 11, claims 12-17 are therefore allowable for at least the same reasons.

Claim 26

Claim 26 was rejected under 35 USC § 103(a) as being unpatentable over Jilk in view of U.S. Patent No. 4,852,001 to Tsushima et al ("Tsushima"). This rejection is respectfully traversed.

As the PTO recognizes in MPEP §2143, "[t]o establish a prima facie case of obviousness, . . . the prior art reference (or references when combined) must teach or suggest all the claim limitations."

Applicant respectfully submits that Jilk in view of Tsushima does not teach or suggest all of the claim limitations in independent claim 26.

As acknowledged by the Examiner, Jilk does not teach “determining a yield value for each of the plurality of tasks using opportunity based retail factors” as recited in claim 26. To overcome this deficiency, the Examiner has attempted to combine Jilk with Tsushima because Tsushima teaches “allocation rules.” Applicant submits that, even if Jilk and Tsushima are properly combinable, the combination of the references does not teach or suggest all of the claim limitations. In particular, Applicant respectfully disagrees that “allocation rules” are equivalent to a “yield value” as stated by the Examiner. In Tsushima, the “allocation rules” are described as “an initial workload for job [P₁], resource type [P₂] and number of persons [P₃] are allocated between [P₄] o’clock to [P₅] o’clock.” (Tsushima, col. 3, lines 36-38). Further, “[w]ith this initial workload allocation rule, it is possible to allocate most suitable time units to the workload of a job.” (Tsushima, col. 3, lines 53-55). Accordingly, Tsushima teaches allocation rules to allocate time units to a job.

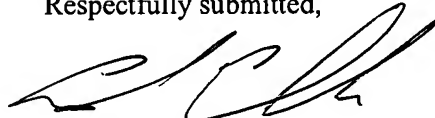
On the other hand, “yield values” are values assigned to a task based on opportunity based retail factors. (See ¶¶15-17). Additionally, yield values are a separate mechanism for prioritizing than a timing based system. (See ¶18). Accordingly, the Tsushima reference cited by the Examiner, which teaches allocation rules to allocate time units, does not teach, disclose, or suggest yield values, which are values assigned to a task based on opportunity based retail factors. As such, neither Jilk nor Tsushima teach “determining a yield value for each of the plurality of tasks using opportunity based retail factors.” Therefore, the combination of Jilk and Tsushima does not teach or suggest all of the claim limitations.

Applicant respectfully submits that claim 26 is in condition for allowance and the rejection should be withdrawn.

IV. Conclusion

It is believed that all matters set forth in the Office Action have been addressed. Favorable consideration and an early indication of the allowability of the claims are respectfully requested. Should the Examiner deem that an interview with Applicants' undersigned attorney would expedite consideration, the Examiner is invited to call the undersigned attorney at the telephone number indicated below.

Respectfully submitted,



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